

California Regional Water Quality Control Board
North Coast Region

Cleanup and Abatement Order No. 98-66

For

Mercer, Fraser Company
and
Canevari Timber Company, Incorporated

Humboldt County

The California Regional Water Quality Control Board, North Coast Region (hereinafter Regional Water Board), finds that:

1. Canevari Timber Company, Incorporated owned and operated a gravel mining and processing plant and an asphalt plant adjacent to the east bank of the Eel River in Fortuna. All wastewater from the processing operation is discharged to evaporation/percolation ponds adjacent to the Eel River.
2. On May 28, 1992 the Regional Water Board issued Waste Discharge Requirements, Order No. 92-64 to Canevari Timber Company, Inc. to govern management of petroleum-containing soil before incorporation into asphalt. Soils were to be transported to the plant during dry weather conditions, temporarily stockpiled on a mixing pad, processed and incorporated into asphalt.
3. Order No. 92-64 provides that "The maximum containment time for the soils from transportation time to the plant and processing into asphalt will be one week. The maximum amount of soils on the pad prior to processing will be 3,200 cubic yards." Staff inspections during 1996 and 1997 indicated that no soil was processed during that period. The volume of soil onsite is estimated to be at, or above, the permitted capacity.

These conditions violate, and threaten to violate, Waste Discharge Requirements Order No. 92-64 which states, in part:

"A. DISCHARGE PROHIBITIONS

1. Creation of a pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC), is prohibited."

8. Contaminated soil mixing and processing activities in excess of 3,200 cubic yards is prohibited.”

“C. PROVISIONS

3. Operations and Maintenance

The discharger must maintain in good working order and operate as efficiently as possible any facility or control system installed by the discharger to achieve compliance with the waste discharge requirements.

9. Noncompliance

In the event the discharger is unable to comply with any of the conditions of this Order due to:

- a. breakdown of waste treatment equipment;
- b. accidents caused by human error or negligence; or
- c. other causes such as acts of nature;

the discharger must notify the Executive Officer by telephone as soon as he or his agents have knowledge of the incident, and confirm this notification in writing within two weeks of the telephone notification. The written notification shall include pertinent information explaining reasons for the noncompliance and shall indicate the steps taken to correct the problem and the dates thereof, and the steps being taken to prevent the problems from reoccurring.”

4. On June 1, 1996 the Mercer, Fraser Company purchased all equipment and existing stockpiles, including the asphalt plant and petroleum-containing soil from Canevari Timber Company, Inc. Canevari Timber Company, Inc. retains ownership of the land and leases the property to Mercer Fraser Company. Canevari Timber Company, Inc. and Mercer Fraser Company are hereinafter known as the discharger.
5. The discharger is violating the provisions of Order No. 92-64. Long-term storage of petroleum-containing soils onsite represent a threat to groundwater and surface waters of the State.
6. The beneficial uses of the Eel River include:

- a. municipal and domestic supply
 - b. agricultural supply
 - c. industrial supply
 - d. groundwater recharge
 - e. navigation
 - f. hydropower generation
 - g. water contact recreation
 - h. non-contact recreation
 - i. warm freshwater habitat
 - j. cold freshwater habitat
 - k. wildlife habitat
 - l. preservation of rare and endangered species
 - m. fish migration
 - n. fish spawning
7. Beneficial uses of areal groundwater include:
 - a. domestic water supply
 - b. agricultural water supply
 - c. industrial supply
8. Any person who has discharged or discharges waste into the waters of this state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board, clean up the waste or abate the effects of the waste, or in the case of threatened pollution or nuisance, take other necessary remedial action, including , but not limited to, overseeing cleanup up and abatement efforts.
9. This enforcement action is being taken for the protection of the environment and, therefore, is exempt from compliance with the California Environmental Quality Act (Public Resources Code Section 21000, et. seq.), pursuant to Title 14, California Code of Regulations, Section 15321(a)(2).

THEREFORE IT IS HEREBY ORDERED that pursuant to California Water Code Section 13304, the discharger shall cleanup and abate the violations and threatened violations of Order No. 92-64 in accordance with the following schedule of tasks:

1. By June 15, 1998 prepare and submit a plan and schedule to process petroleum-containing soil into asphalt. This plan shall include operational activities to prepare the soil as well as any physical structures and management protocols necessary for protection of water quality.

2. By November 1, 1998, submit a status report presenting the amount of soil incorporated into asphalt, the volume of asphalt produced, purchaser of the asphalt, and location of the asphalt and the stockpile volume remaining to be processed. The report should also discuss the viability of the soil incorporation activities for both public and private projects.
3. By November 1, 1999, submit a final report documenting that all petroleum-containing soil has been processed or, a proposal to remove all soil from the site by December 1, 1999.

If for any reason, the discharger is unable to perform any activity or submit any document in compliance with the schedule set forth therein or in compliance with any work schedule submitted pursuant to this Order and concurred in by the Executive Officer, the discharger may request, in writing, an extension of the time specified. Extension requests must be submitted five days in advance of the due date and shall include justification for the delay including a description of the good faith effort performed to achieve compliance with the due date. The extension request shall also include a proposed time schedule with new performance dates for the due date in question and all dependent dates. An extension may be granted for good cause, in which case this Order will be revised accordingly.

Ordered by _____

Lee A. Michlin
Executive Officer

May 21, 1998